



Tunisia

Country Reports on Human Rights Practices - [2002](#)

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Tunisia is a constitutional republic dominated by a single political party. President Zine El-Abidine Ben Ali and his Constitutional Democratic Rally (RCD) party have controlled the Government, including the legislature, since 1987. This dominance was reaffirmed in an overwhelming RCD victory in the October 1999 legislative and presidential elections. Although 1999 revisions to the Constitution allowed 2 opposition candidates to run against Ben Ali in the elections, the official results stated that Ben Ali won 99.44 percent of the vote. The ruling RCD party's domination of state institutions and political activity precludes credible and competitive electoral challenges from unsanctioned actors. Approximately 20 percent of representation in the Chamber of Deputies is reserved for opposition parties (34 of 182 seats). On June 1, nearly half the Constitution was amended after the Government initiated changes that, among other things, removed term limits for the presidency, raised the age limit of presidential candidates, granted immunity to the president for acts committed while in office, and created a second legislative chamber. In May the Government had put the amendment reforms to a national referendum and stated that it passed with 99.52 percent of the vote, though credible reports indicated that the vote was characterized by intimidation and that there was no secret ballot. The next presidential election is scheduled for 2004. The President appoints the Prime Minister, the Cabinet, and the 24 governors. There were reports of government pressure and interference during voting for the May 26 constitutional referendum and some NGOs condemned the Government's amendment plan as a reinstatement of a "presidency-for-life." Although the Constitution provides for an independent judiciary, the executive branch and the President strongly influenced judicial decisions, particularly in political cases.

The police share responsibility for internal security with a paramilitary National Guard. The police operated in the capital and a few other cities. In outlying areas, their policing duties were shared with, or ceded to, the National Guard. Both forces were under the control of the Minister of Interior and the President. Security forces continued to commit serious human rights abuses.

The country had a population of 9.7 million with an export-oriented market economy based on manufactured exports, tourism, agriculture, and petroleum. According to government statistics, more than 60 percent of citizens are in the middle class and only 4.2 percent of citizens fell below the poverty line.

The Government generally respected the rights of its citizens in some areas; however, its record remained poor in other areas, and significant problems remained. There were significant limitations on citizens' right to change their government. Members of the security forces tortured and physically abused prisoners and detainees. Security forces arbitrarily arrested and detained persons. International observers were not allowed to inspect prisons, and lengthy pretrial detention and incommunicado detention remained problems. The Government infringed on citizens' privacy rights. Security forces physically abused, intimidated, and harassed citizens who voiced public criticism of the Government. The Government continued to impose significant restrictions on freedom of speech and of the press. Editors and journalists continued to practice self-censorship. The Government remained intolerant of public criticism, using physical abuse, criminal investigations, the court system, arbitrary arrests, and travel controls (including denial of passports), to discourage criticism and limit the activities of human rights activists. The Government restricted freedom of assembly and association. The Government did not permit proselytizing. The Government continued to support the rights of women and children; however, legal discrimination against women continued to exist. Child labor existed but continued to decline, due principally to government efforts to address the problem. Tunisia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings; however, during the year there were allegations of three deaths in custody in which members of the security forces were involved directly or in which they were accused of complicity. In March the National Council for Liberties in Tunisia (CNLT) released its second report on the state of liberties in the country that described incidents in 2000 and 2001 of five suspicious deaths in custody that the police classified as suicides and roadside deaths the police classified as vehicle accidents.

In March the Tunisian Human Rights League (LTDH) branch in Medenine investigated the death in police custody of Imed Ben Ali Bourguiba. The police claimed that Bourguiba committed suicide on March 14. No information on his death was made public.

On March 23, Abdelwahab Boussaa, a 32-year-old an-Nahdha member who had been imprisoned since 1991 for membership in an illegal organization, died in prison of acute renal failure caused by a hunger strike protesting prison conditions and torture by prison authorities.

On March 30, Lakhdar Ben Hacine Zbiri, a 36-year-old an-Nahdha member, died in prison allegedly as a result of neglect. Prison officials were accused of denying Zbiri, who was diagnosed earlier with leukemia, adequate medical care.

The Government did not release any information on the following deaths in custody reported in 2001: Abderrahman Jehinaoui; Ryadh Bouslama Sayadi; Zine Ben Brik; and Hassene Azouzi.

In 2001 the Government sentenced to prison terms some security officials found responsible for deaths in custody (see Section 1.c.).

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Penal Code prohibits the use of torture and other cruel, inhuman, or degrading treatment or punishment; however, security forces reportedly routinely used various methods of torture to coerce confessions from detainees and to punish political prisoners. The forms of torture included electric shock; confinement to tiny, unlit cells; submersion of the head in water; beatings with hands, sticks, and police batons; suspension from cell doors resulting in lost consciousness; cigarette burns, and food and sleep deprivation. Police also reportedly beat naked, manacled prisoners while they were suspended from a rod. Some credible reports indicated the use of sexual assault and threats of sexual assault by police and prison officials against the wives of Islamist prisoners to extract information or to intimidate or punish prisoners.

In June Ali Mansouri, a prisoner who alleged he was severely beaten by prison guards, received the final payment in compensation for amputation of both legs as a result of mistreatment received in prison. In the first case of its kind, Mansouri filed criminal charges against the mistreatment by prison guards in 2000. In 2001 the court found four guards guilty of torture and sentenced them each to 4 years in prison. It also ordered the Government to pay \$210,000 (315,000 dinars) in compensation to Mansouri. On January 25, the Mansouri decision was reviewed by the Criminal Court of Appeal. The court upheld convictions of three of the guards, sentencing two of them to 4 years imprisonment and reducing the sentence of a third guard to 2 years. The court overturned the conviction of the fourth guard.

According to Amnesty International (AI) and defense attorneys, the courts routinely failed to investigate allegations of torture and mistreatment and have accepted as evidence confessions extracted under torture. In 1999 the Government enacted amendments to the Penal Code that adopted the U.N. definition of torture, instructed police to inform detainees of their rights, including, notably, the right of a defendant to demand a medical examination while in detention, and increased the maximum penalty for those convicted of committing acts of torture from 5 to 8 years. The Government also shortened the maximum allowable period of prearrest detention from 10 to 6 days and added a requirement that the police notify suspects' families on the day of their arrest (see Section 1.d.). However, credible sources claimed that the Government rarely enforced these provisions and that appeals to the court for enforcement routinely were denied.

Credible reports indicated that police tortured Lofti Ferhat, a 39-year-old former courier who had been living in France before his 2000 arrest. During his incommunicado detention at the Ministry of Interior, he signed an admission of membership in a group linked to an-Nahdha. In 2001 a military court convened to hear the case against Ferhat and, based on the signed admission extracted under torture by authorities, sentenced him to 7 years in prison plus 5 years of administrative control. In May the Court of Cassation upheld his sentence and ruled that the defendant's claims of torture were inadmissible in the appeal hearing (see Section 1.e.).

In June the LTDH released a report citing that the human rights situation in the country had "seriously deteriorated." The report, the first publicly released since 1994, cited several instances of torture and deaths in prison. In July the League announced that it would prepare a report specifically aimed at documenting the situation in the prisons and estimated the prison population to be more than 30,000.

Human rights advocates maintained that charges of torture and mistreatment were difficult to document because government authorities often denied medical examinations until evidence of abuse has disappeared. The Government maintained that it investigates all complaints of torture and mistreatment filed with the prosecutor's office and claimed that alleged victims sometimes publicly accused authorities of acts of abuse without taking the steps required to initiate an investigation. However, according to human rights groups, police often refused to register complaints and judges dismissed complaints lodged by alleged victims of torture with little or no investigation. Absent a formal complaint, the Government may open an administrative investigation but is unlikely to release the results to the lawyers of affected prisoners. The Government appeared to distinguish Islamists from other political opposition prisoners; Islamists tended to receive harsher treatment during their arrests and confinement. The 2001 conviction of the prison guards in the Mansouri case represented the first documented instance in which prison security officials were disciplined for such abuse.

Security forces attacked and beat citizens, particularly human rights activists, for holding demonstrations or meetings, or for criticizing the Government (see Sections 2.b. and 4). On January 13, the CNLT reported that police prevented a plenary meeting they tried to hold at the Aloes Publishing House to discuss the organization's annual report.

On January 30, plainclothes police beat Loumamba Mohseni, director of communications for the Web magazine Kaws El Karama, unconscious as he waited for a taxi.

In April during otherwise peaceful pro-Palestinian demonstrations, police armed with truncheons dispersed demonstrators, mostly human rights and opposition leaders, beating some and chasing others into side streets.

On August 28, five plainclothes policemen attacked Lasaad Jouhri, former prisoner of conscience upon leaving a lawyer's office. Police beat Jouhri, who has a partially paralyzed right leg sustained from torture in prison between 1991 and 1994, with his crutch, concentrating the blows on his right knee (see Section 2.b.).

On December 11, former judge Mokhtar Yahiaoui was attacked and severely beaten by three plainclothes policemen while trying to enter the law offices of his colleague Nouredine Bhiri. Yahiaoui indicated that one policeman blocked the entry to the office and dragged him to a narrow side street where two other officers beat him. Yahiaoui's screams drew a crowd of onlookers and the police relented long enough for Yahiaoui to run back to Bhiri's office. He was treated in a local hospital for contusions to his head, face and legs. Yahiaoui said he believed the beating was because of a call he made on December 10 for the Government to release 23 political prisoners who have been in detention for more than 10 years.

In 2001 legal responsibility for the prison and parole system transferred from the Ministry of Interior to the Ministry of Justice, which stated publicly its intent to improve prison conditions; however, there were no discernable changes by year's end.

Prison conditions ranged from Spartan to poor and, in nearly all cases, did not meet international standards. Credible sources reported that overcrowding remained a serious problem, with 40 to 50 prisoners typically confined to a single 194-square foot cell, and up to 140 prisoners held in a 323-square foot cell. Defense attorneys reported that prisoners were forced to share a single water and toilet facility with more than 100 cellmates, creating serious sanitation problems.

On December 12, the magazine Realities published an article documenting substantial overcrowding and substandard prison conditions. The article quoted a study by the International Center for Prison Studies, King's College London, which indicated a prison population rate of 253 prisoners per 100,000 persons. Realities claimed that prisoners were made to sleep on floors and under beds and that some waited up to 7 months before moving from the floor to a bed shared with other prisoners. In response to the article, President Ben Ali announced the formation of a commission of inquiry into prison conditions. On December 16, the public prosecutor called the author of the article, Hedi Yahmed, to answer charges of defamation and "spreading false information aimed at undermining the public order." On December 19, he was forced to resign after substantial government pressure and left the country (see Section 2.a.).

There were credible reports that conditions and prison rules were harsher for political prisoners than for the general prison population. One credible report alleged the existence of special cell blocks and prisons for political prisoners, in which they might be held in solitary confinement for months at a time. Another credible source reported that high-ranking leaders of the illegal an-Nahdha Islamist movement remained in solitary confinement since 1991. Other sources alleged that political prisoners regularly were moved among jails throughout the country, thereby making it more difficult for their families to deliver food to them and to discourage their supporters or the press from inquiring about them. The CNLT reported in the past that inmates were instructed to isolate new political prisoners and were punished severely for contact with them.

During the year, prisoners undertook several hunger strikes to protest substandard prison conditions, mistreatment, and the denial of family visits. In January Mohamed Moaada began a hunger strike to protest poor prison conditions and his lack of proper medical treatment. On January 31, Moaada received a presidential pardon and was conditionally released from prison.

On March 16, Ammar Amroussia, a Tunisian Communist Worker's Party (PCOT) member detained on February 2, began a hunger strike protesting prison conditions and his transfer. On November 7, he was released from prison as part of an amnesty marking the 15th anniversary of President Ben Ali's accession to power.

In June Radhia Nasraoui undertook a 6-week hunger strike protesting her husband Hama Hammami's imprisonment. The

Government responded by characterizing her actions as "immoral." During her hunger strike, she traveled to Paris with her daughter, claiming she wanted her children in France "far away from police provocation" (see Section 2.b.).

On July 29, prisoners at Borj El Amri near Tunis started a general hunger strike protesting their conditions. Credible reports indicated that the prison director beat one of the prisoners, Hatem Ben Romdhane, for his participation.

Zakaria Ben Mustapha, National Commissioner for Human Rights, continued the practice of reviewing prison conditions. The organization is government-funded and in January Ben Mustapha reported his findings to President Ben Ali, who declined to make them public.

The Government did not permit international organizations or the media to inspect or monitor prison conditions. In March the CNLT called for reform of the prison system, citing the systematic torture and abuse of prisoners and continued lack of basic hygienic conditions and medical care. Men, women, and children were held separately in prisons.

d. Arbitrary Arrest, Detention, or Exile

The law authorizes the police to make arrests without warrants only in the cases of suspected felons or crimes in progress; however, the authorities did not observe this restriction and arbitrary arrest and detention remained problems. The Penal Code provides for a maximum 3-day detention period, renewable once (for a maximum of 6 days) by the prosecutor, thus reducing from 10 days to 6 the period that the Government may hold a suspect incommunicado following arrest and prior to arraignment. The Code also requires arresting officers to inform detainees of their rights and detainees' families of the arrest at the time of arrest, and to make a complete record of the times and dates of such notifications. Credible sources stated that the law rarely was enforced with respect to either common criminals or political detainees. Detainees have the right to be informed of the grounds for arrest before questioning and may request a medical examination. However, they do not have a right to legal representation during the 6-day incommunicado detention period. Attorneys, human rights monitors, and former detainees maintained that the authorities illegally extend the maximum limit of pre-arraignment detention by falsifying the date of arrest. Police reportedly extorted money from families of innocent detainees for dropping charges against them.

The law permits the release of accused persons on bail, which may be paid by a third party. In cases involving crimes for which the sentence exceeds 5 years or that involve national security, preventive detention may last an initial period of 6 months and be extended by court order for two additional 4-month periods. For crimes in which the sentence may not exceed 5 years, the court may extend the initial 6-month pretrial detention by an additional 3 months only. During this period, the court conducts an investigation, hears arguments, and accepts evidence and motions of both parties. The law provides persons indicted for criminal acts the right to appeal their indictment before the case comes to trial. Detainees have the right to be represented by counsel during arraignment. The Government provides legal representation for indigents. At arraignment the examining magistrate may decide to release the accused or remand him to pretrial detention.

A case proceeds from investigation to a criminal court, which sets a trial date. There is no legal limit to the length of time the court may hold a case over for trial, nor is there a legal basis for a speedy hearing. Complaints of prolonged detention of persons awaiting trial were common, and President Ben Ali publicly had encouraged judges to make better use of release on bail and suspended sentences. Some defendants have claimed that they have been held in pretrial detention for years.

On May 31, Moncef Chaker reportedly was arrested and taken to his home where police seized his personal computer. He was held in incommunicado detention at the Ministry of Interior for several days. No explanation was given for his arrest and he indicated police threatened him not to reveal details of his detention.

On September 4, Zouhayer Makhoulf and Chadli Turki were arrested for reasons that were not made clear to them. Makhoulf, an AI member, indicated he was asked to give up his membership in the human rights organization. Turki, a medical doctor, indicated he believed he was being harassed possibly because of links to some political opponents. On September 8, they were released.

Sihem Bensedrine, who in 2001 was arrested, charged with defamation of a judge and spreading false information aimed at undermining the public order on Al-Mustaqella satellite broadcast in London, and released as part of a broader amnesty, may still be subject to judicial proceedings. However, at year's end, she had not been subject to additional proceedings.

On January 31, Mohammed Moaada was conditionally released on a presidential pardon and his civil and political rights were restored. In 2001 police arrested Moaada, former secretary general of the Democratic Socialist Movement (MDS) opposition party, for violating the conditions of his parole. Precise charges were not publicly specified; however, prior to his arrest he had appeared on Al Mustaqella criticizing the Government.

The Penal Code contains provisions for the imposition of administrative controls following completion of a prison sentence; however, only judges have the right to order a former prisoner to register at a police station, and the law limits registration requirements to 5 years. Security forces reportedly arbitrarily imposed administrative controls on former prisoners following their release from prison, which often prevented them from being able to hold a job. Defense attorneys reported that some clients must sign in four or five times daily, at times that are determined only the previous evening. When the clients arrive at the police station, they may be forced to wait hours before signing in, making employment impossible and childcare difficult. Numerous

Islamists released from prison in recent years have been subjected to these types of requirements.

The law allows judges to substitute community service for jail sentences in minor cases in which the sentence would be 6 months or less. There is no evidence that this alternative was applied in political cases.

There were reports of hundreds of political detainees, although there was no reliable estimate due to arbitrary government detention practices and the lack of public arrest records. The Government denied arresting persons for political crimes. Rather, it relied on a variety of broad or vague provisions in the Penal Code, including against "spreading false information aimed at undermining the public order," and "belonging to an illegal organization," to arrest and charge political opponents, human rights activists, and Islamists, among others.

Judges and the Government exercised the authority to release prisoners or suspend their sentences, often on conditional parole. For example, in 2001 human rights lawyer Nejib Hosni received a presidential pardon after serving 4 ½ months for violating his conditional parole by practicing law. Hosni appeared at the Court of Appeal on behalf of Hama Hammami and addressed the court as a lawyer despite the official ban on his practicing. The Tunisian Bar Association came to his defense, claiming that only it has the authority to disbar lawyers. Hosni continued to practice law, despite the Government's ban, and represented several human rights defendants. On September 4, Hama Hammami and Samir Taamallah were released on conditional parole for health reasons.

The Constitution prohibits forced exile, and the Government observed this prohibition. Some political opponents in self-imposed exile were prevented from obtaining or renewing their passports in order to return. However, since 2000 the Government had returned 200 passports (see Section 2.d.). One report indicated that in July journalist Abdallah Zouari received an administrative order from the Ministry of Interior ordering him to comply with an internal exile provision of his administrative control, banishing him to Zarzis in the south of the country (see Section 2.d.).

e. Denial of Fair Public Trial

Although the Constitution provides for an independent judiciary, the executive branch and the President strongly influenced judicial decisions, particularly in political cases. The judicial branch is part of the Ministry of Justice; the executive branch appoints, assigns, grants tenure to, and transfers judges. In addition, the President is head of the Supreme Council of Judges. This renders judges susceptible to pressure in sensitive cases. In January the Chamber of Deputies passed a law granting citizens legal recourse to the Administrative Tribunal to address grievances against government ministries, as a type of ombudsman. However, government officials rarely respected decisions by the tribunal in practice.

The court system consists of the regular civil and criminal courts, including the courts of first instance; the courts of appeal; and the Court of Cassation, the nation's highest appeals court; as well as the military tribunals within the Defense Ministry.

Military tribunals try cases involving military personnel and civilians accused of national security crimes. A military tribunal consists of a civilian judge from the Supreme Court and four military judges. Defendants may appeal the tribunal's verdict to the final arbiter, the Court of Cassation, which considers arguments on points of law as opposed to the facts of a case. AI has claimed that citizens charged under the tribunals have been denied basic rights during the judicial process. During the year, in one instance, civilians were tried before a military tribunal. The defendants were convicted of association with terrorist groups and sentenced to prison terms. In January 34 persons were convicted of belonging to a terrorist group linked to al-Qa'ida, 30 of whom remained outside the country.

In May, in another civilian case dating to 2000, Lofti Ferhat's conviction of belonging to a group linked to an -Nahdha was upheld.

By law the accused has the right to be present at trial, be represented by counsel, question witnesses, and appeal verdicts. However, in practice judges do not always observe these rights. The law permits trial in absentia of fugitives from the law. Both the accused and the prosecutor may appeal decisions of the lower courts. Defendants may request a different judge if they believe that a judge is not impartial; however, in practice judges do not always permit this. In 2001 a sitting judge, Jedidi Ghenya, was quoted as declaring in court that everyone who appears before him is guilty until they prove their innocence, despite the fact that the Constitution provides for the presumption of innocence until the legal establishment of guilt.

Trials in the regular courts of first instance and in the courts of appeals are open to the public. The presiding judge or panel of judges dominates a trial, and defense attorneys have little opportunity to participate substantively. Defense lawyers contended that the courts often failed to grant them adequate notice of trial dates or allow them time to prepare their cases. Some also reported that judges restricted access to evidence and court records, requiring in some cases, for example, that all attorneys of record examine the court record on one specified date in judges' chambers, without allowing attorneys to copy material documents. Defense lawyers also claimed that judges sometimes refuse to allow them to call witnesses on their clients' behalf or to question key government witnesses. Lengthy trial delays also were a problem (see Section 1.d.).

Although civil law, including family and inheritance law, is codified, judges were known to override codified law with Islamic law if codified law conflicts with Shari'a, especially in cases involving child custody. Generally Shari'a-based civil law was applied only in some family cases. Some families avoided the application of Shari'a in inheritance questions by executing sales

contracts between parents and children in order to ensure that daughters received shares of property equal to that of the sons.

For example, codified laws provide women with the legal right to custody over minor children; however, judges have refused to grant women permission to leave the country with minor children, holding that Shari'a appoints the father as the head of the family who must grant children permission to travel. On July 22, police prevented Radhia Nasraoui's 3-year-old daughter from traveling. Though she had her mother's permission, police indicated her father, Hamma Hammami, who was in prison at the time, must also give his permission. The child was allowed to travel with her mother several days later.

In court a woman's testimony is worth the same as a man's.

Human rights activists contended that the judicial system is neither independent nor fair and that it applies the law unevenly to defendants facing politically motivated charges. On February 7, the National Council of the Order of Lawyers observed a strike protesting the conditions of Hamma Hammami's 1999 trial, during which Hammami and two co-defendants were tried in absentia. When they returned to the country to respond to charges, they were removed from court and re-sentenced in closed court. The Government described the strike as illegal.

On November 20, a Canadian national of Tunisian origin, Bechir Saad, was sentenced on appeal to 4 years in prison for membership in an-Nahdha. Saad, resident in Canada since 1989, was arrested during a holiday in the country. A Canadian consular official and a Canadian magistrate were allowed to attend his trial.

Throughout the year, the Government permitted observers from diplomatic missions, members of the European Parliament, and foreign journalists to monitor trials, while selectively barring other observers from human rights organizations from entering the country (see Section 4).

AI and defense attorneys reported that courts routinely failed to investigate allegations of torture and mistreatment, and have accepted as evidence confessions extracted under torture (see Section 1.c.). Defense lawyers and human rights activists claimed that the summary nature of court sessions sometimes prevented reasoned deliberation. They also claimed that erratic court schedules and procedures were designed to deter and discourage observers of political trials.

There is no definitive information regarding the number of political prisoners. Human Rights Watch has reported that there might be hundreds of political prisoners convicted and imprisoned for membership in the Islamist group an-Nahdha and the PCOT, for disseminating information produced by these banned organizations, and for aiding relatives of convicted members. In September 2001, AI estimated that there were up to 1,000 political prisoners. Nearly all those prisoners that have been identified by international human rights groups as political prisoners or prisoners of conscience have been arrested or detained under articles of the Penal or Press Codes prohibiting membership in illegal organizations or spreading false information aimed at undermining the public order.

The Government traditionally releases prisoners on national holidays. On November 7, the Government released six political prisoners to mark the anniversary of President Ben Ali's accession to power: Ammar Amroussia (PCOT), Abdejabbar Madouri (PCOT), Abdallah Zouari (an-Nahdha), Fethi Karoud (an-Nahdha), Khaled Khaldi (an-Nahdha), and Ahmed Amari (an-Nahdha).

The Government denied that it holds any prisoners considered "political," and normally did not provide details on the numbers or types of prisoners released.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for the inviolability of the person, the home, and for the privacy of correspondence, "except in exceptional cases defined by law." However, the Government infringed on these rights. The law requires that the police obtain warrants to conduct searches; however, police sometimes ignored the requirement if authorities considered that state security is at stake or that a crime is in progress.

The Government broke into and ransacked the homes and offices of human rights activists and opposition figures.

In December 2001, Rally for an International Alternative for Development (RAID) reported that the houses of two of its members, Fathi Chamkhi and Sadri Khiari, were broken into and vandalized. On July 6, Chamkhi reported his house again was broken into as a punishment, he believed, for his participation in a meeting in Lyon on the state of human rights in the country.

Authorities may invoke state security interests to justify telephone surveillance. There were numerous reports of government interception of fax and computer-transmitted communications. The law does not authorize explicitly these activities, although the Government has stated that the Code of Criminal Procedure implicitly gives investigating magistrates such authority. Many political activists experienced frequent and sometimes extended interruptions of residential and business telephone and fax services. Human rights activists accused the Government of using the 1998 Postal Code, with its broad but undefined prohibition against mail that threatens the public order, to interfere with their mail and interrupt the delivery of foreign publications. Local phone, fax, and copy shops require users to turn over their identification cards when requesting to send faxes.

During the year, Radhia Nasraoui, a human rights lawyer, reported that the Government routinely cut her telephone service. In 2001 there were reports of the temporary disruption of cellular and landline service to prominent human rights and opposition leaders during the call-in portion of the Al-Mustaquella television program (see Section 2.a.).

The security forces routinely monitored the activities of political critics, and sometimes harassed, followed, questioned, assaulted or otherwise intimidated them, their relatives, and associates. Security forces continued to harass, assault, and intimidate members of the CNLT (see Sections 1.c, 2.b, and 4). For example, police place journalists who wrote articles critical of the Government, or who were active in human rights organizations, under surveillance (see Section 2.a.). Credible reports indicated that the children of activists were also harassed and beaten by police. For example, on June 14 a man attacked Amira Yahiaoui, daughter of Mokhtar Yahiaoui, with a club as she was leaving school. Witnesses believed the attacker to be a member of the police.

Human rights activists, lawyers, and other political activists also reported that they were under police surveillance. For example, police continued their heavy surveillance of the CNLT offices in Tunis (see Sections 2.b. and 4). In January LTDH president Mokhtar Trifi and committee member Neji Marzouk reported being subjected to body searches by border police when flying to Paris to attend a human rights conference. On February 7, Trifi also reported that his office was broken into and vandalized. Police refused to register his complaint, prompting Trifi's suspicion that the break-in was the work of "political police." During the year, both the home and offices of human rights lawyer Radhia Nasraoui continued to be under heavy surveillance.

Human rights activists claimed that the Government subjected the family members of Islamist activists, as well as other human rights activists, to arbitrary arrest, reportedly utilizing charges of "association with criminal elements" to punish family members for alleged crimes committed by the activists. Human rights activists reported that their family members were denied jobs, business licenses, and the right to travel due to their relatives' activism. Human rights activists also alleged that the relatives of Islamist activists who are in jail or living abroad were subjected to police surveillance and mandatory visits to police stations to report their contact with relatives. The Government maintained that the Islamists' relatives were members or associates of the outlawed an-Nahdha movement and that they correctly were subjected to legitimate laws prohibiting membership in or association with that organization.

There were no reports during the year that the Government refused to issue passports to family members of human rights activists. However, police seized the passport of Hamma Hammami's daughter during a trip to the country's north coast. Nejib Hosni and his family members no longer were denied their passports.

Human rights activists alleged that security forces arbitrarily imposed administrative controls on prisoners following their release from prison (see Section 1.d.) and confiscated national identity cards from numerous former prisoners. Confiscation of an identity card makes nearly every aspect of civil and administrative life difficult. An individual must have an identity card to receive access to healthcare, to sign a lease, to buy or drive a car, to have access to bank accounts, and pensions, and even to join a sports club. Police may stop anyone at anytime and ask for their identity card. If individuals are unable to produce cards, police may detain them until their identity can be established by a central fingerprint database. In 2000 a credible source claimed that the Government confiscated the national identity cards of as many as 10,000 persons who were either former prisoners convicted of membership in an-Nahdha or relatives of an-Nahdha members and their supporters.

The Government regularly prohibited the distribution of some foreign publications (see Section 2.a.). The security forces often questioned citizens seen talking with foreign visitors or residents, particularly visiting international human rights monitors and journalists (see Section 2.a.).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of expression and of the press; however, the Government restricted these rights in practice. The Government used a central censorship office as well as indirect methods to restrict press freedom and encourage a high degree of self-censorship. The Government also uses the Press Code, which contains broad provisions prohibiting subversion and defamation, to prosecute individuals who express dissenting opinions. In a 2001 speech before the RCD, President Ben Ali stated that although the Government must protect the right of citizens to hold dissenting opinions, those citizens who criticize the country in the international media were "traitors" who would be prosecuted to the full extent of the law. Direct criticism of government policies or officials was restricted, either directly or through self-censorship, but press discussions of sensitive democracy and human rights problems in general were permitted.

In 2001 the Chamber of Deputies approved several changes to the Press Code, which included the designation of the Ministry of Human Rights, Communications, and Relations with the Chamber of Deputies as the central censorship office. However, with the abolishment of this ministry in September, the role of censor reverted to the Ministry of Interior. Opposition members and international observers viewed the changes to the Press Code as largely superficial—designed to give the appearance of liberalization while only making minor cosmetic changes, transferring a number of offenses from the Press Code to the Penal Code, making them subject to judicial review and streamlining the censorship process. The revisions provided that copies of newspapers published outside of Tunis could be deposited with local governors rather than at central Tunis offices. Newspapers were required to raise the percentage of journalists drawn from the Institute of Journalism (IPSI) on their editorial staff from 30 percent to 50 percent. In May the Tunisian Association of Journalists (AJT) released a widely disseminated report

strongly criticizing the Government's control of the press and information sector.

In September, after the May replacement of Minister of Human Rights Slaheddine Maaoui by Fethis Houidi, the Ministry of Human Rights, Communications, and Relations with the Chamber of Deputies was abolished. The portfolio was folded into a new Ministry of Justice and Human Rights under Minister of Justice Bechir Tekkari. Also in September, former university professor Harm Ben Salem was appointed General Coordinator for Human Rights in the newly designated ministry (see Section 4).

The Government detained, interrogated, and harassed local and international human rights activists (see Sections 1.c. and 4). On August 19, Islamist dissident and journalist Abdallah Zouari was arrested for violating the provisions of his administrative control. Zouari, a journalist for the an-Nahdha newspaper Al Fajr, originally was sentenced in 1991 to 11 years in prison for membership in an illegal organization. In June he was released under the condition he would serve out his 5 years of administrative control in the town of Zarzis (300 miles south of Tunis). Credible sources claimed his August arrest stemmed from his ignoring a July 15 letter from the Ministry of Interior ordering him to Zarzis. The Government denied Zouari ever held a press card or worked as a journalist and claimed his conviction was for possessing, making, and carrying ammunitions, weapons, and explosives as well as undermining state security. The court handed down an 8-month sentence (see Sections 1.e. and 4).

On May 16, border police at Tunis-Carthage airport refused entry into Tunis to French journalist Jean-Pierre Tuquoi, who had written items critical of the Ben Ali regime (see Section 4).

On June 4, Zouhair Yahiaoui was arrested and charged with spreading false information in relation to his opposition web magazine TUNeZINE. The magazine had published an online conference on the May 26 Constitutional referendum and asked respondents to vote whether they felt living in the country was like a prison. He also was alleged to have posted a rumor of an armed attack against the President. On June 20, Yahiaoui was sentenced to 2 years and 4 months in prison. During his July 10 appeal, the sentence was reduced to 2 years. Defense lawyers indicated they were given no opportunity to make arguments. In September Yahiaoui indicated he shared a cell that was 40 square meters with 80 persons and that they only had access to water for 30 minutes a day.

Although several independent newspapers and magazines—including several opposition party journals—existed, the Government relied upon direct and indirect methods to restrict press freedom and encourage a high degree of self-censorship. Primary among these methods was "depot legal," the requirement that printers and publishers provide copies of all publications to the Ministry of Human Rights, Communications, and Relations with the Chamber of Deputies prior to distribution. However, with the abolishment of this ministry in September, use of "depot legal" reverted to the Ministry of Interior. The opposition Democratic Progressive Party (PDP) claimed that in January and August 2001 copies of its Al-Mawqif newspaper were removed from newsstands because they contained an article critical of the Government. Publication of the Al-Mawqif newspaper was delayed on several occasions. Since 1999 the Government has not permitted the Tunisian Bar Association to publish its internal bulletin. In March the Government seized opposition paper At-Tariq Al Jadid when editors tried to print a story critical of the constitutional reform plan.

Since 1994 the Government has refused to allow AI's local chapter to distribute textbooks on human rights written for high school students. Similarly, distributors must deposit copies of publications printed abroad with the Chief Prosecutor and the Ministry of Interior prior to their public release. While publishers need not wait for an authorization, they must obtain a receipt of deposit before distribution. On occasion such receipts reportedly were withheld, sometimes indefinitely. Without a receipt, publications may not be distributed legally.

The Press Code contains broad provisions prohibiting subversion and defamation, neither of which is defined clearly. The code stipulates fines and confiscation for failure to comply with these provisions. The Government routinely utilized this method to prevent distribution of editions of foreign newspapers and magazines that contained articles critical of the country.

The Government also reportedly withheld depot legal to remove from circulation books that it deemed critical of the Government. Unlike in previous year, there were no reports that the Government provided official texts on major domestic and international events and reprimanded publishers and editors who failed to publish these statements.

The Government also used indirect methods, such as newsprint subsidies and control of public advertising revenues, to encourage self-censorship in the media. The Tunisian Agency for External Communications effectively censored by selectively withholding advertising funds. There were credible reports that the Government withheld advertising orders, a vital source of revenues, from publications that published articles deemed offensive by the Government. For example, after Yahmed's Realities article, the Government pulled its ads from the magazine for a brief time (see Section 1.c.).

The Government exerted further control over the media by threatening to impose restrictions on journalists, such as refusing permission to travel abroad, withholding press credentials, and imposing police surveillance on those who wrote articles critical of the Government. In December journalist Hedi Yahmed was forced to resign from Realities after writing an article on prison conditions (see Section 1.c.).

Members of the security forces also reportedly questioned journalists regarding the nature of press conferences and other

public functions hosted by foreigners that the journalists attended.

Several journalists from Al-Fajr, the publication associated with the outlawed an-Nahdha movement, remained in jail, serving sentences that were imposed in the early 1990s. The Government maintained that the arrests, indictments, and convictions were carried out in full accordance with the law. Visiting foreign journalists sometimes complained of being followed by security officials. In 2001 Reporters Without Borders (RSF) journalist Robert Menard was deported for disturbing the public order by distributing illegal information.

In November RSF released a study ranking countries by their level of press freedom. The country was ranked 128th out of 139 countries. At year's end, the Tunisian Newspaper Association remained expelled from the World Association of Newspapers (WAN).

The Government owned and operated the Tunisian Radio and Television Establishment (ERTT). The ERTT's coverage of government news was taken directly from the official news agency, TAP. There were several government-owned regional radio stations and two national television channels. A bilateral agreement with Italy permits citizens to receive the Italian television station RAI-UNO; since 1999 the broadcast of French television station France 2 remained suspended because of its critical coverage of the elections. Recent estimates placed the number of satellite dishes in the country at well over 200,000. The Government regulated their sale and installation. Many citizens received two satellite programs broadcast from London by members of the opposition: Al-Mustaquella and Zeitouna. The programs served as alternative sources for news and political opinion both through their satellite transmissions and Zeitouna's web site.

During the year, the Government encouraged greater use of the Internet and lowered Internet user and telephone connection fees. Journalists and students were entitled to a 25 percent reduction in Internet usage fees. In September the Government reported that there were 460,000 Internet users and 71,000 subscribers. During the year, the Government closed several public Internet stations citing complaints that minors were accessing "immoral" Web sites. Credible sources indicated some people who would otherwise subscribe have avoided doing so because of fears of government monitoring and censoring e-mail and Web site content. The Government also arrested some Web journalists. The Government used the Internet widely, with most government ministries and agencies posting information on readily accessible Web sites. However, the Government frequently blocked Web sites and on-line publications containing information critical of the Government posted by international NGOs, opposition parties, and foreign governments, including a report on Internet use in the country by Human Rights Watch. The five Internet service providers in the country remained under the control of the Tunisian Internet Agency, which regularly provided lists of subscribers to the Government. Human rights activists alleged that the agency regularly interfered with and intercepted their Internet communications. The Press Code, including the requirement that advance copies of publications be provided to the Government, applies to information shared on the Internet (see Section 4).

The Government limited academic freedom. Like journalists, university professors sometimes practiced self-censorship by avoiding classroom criticism of the Government or statements supportive of the an-Nahdha movement. Professors alleged that the Government utilized the threat of tax audits, control over university positions, and strict publishing rules to encourage self-censorship. The presence of police on campuses also discouraged dissent. Professors must inform the Ministry of Higher Education in advance of any seminars, including the list of participants and subjects to be addressed. Copies of papers to be presented in university settings or seminars must be provided to the Ministry in advance.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; however, the Government restricted this right. Groups that wish to hold a public meeting, rally, or march must obtain a permit from the Ministry of Interior by applying no later than 3 days in advance of the proposed event and submitting a list of participants. The authorities routinely approved such permits for groups that support government positions, but often refused permission for groups that express dissenting views. In addition to permits, registration also was used to control status and operations of NGOs.

During the year, LTDH activists continued to report government harassment, interrogation, property loss or damage, unauthorized home entry, and denial of passports. In October the LTDH reported disruptions to its regional elections in the southern town of Gabes and the northern town of Jendouba. Accounts of events differed but the LTDH maintained that ruling RCD party delegates objected to the voting procedures in Gabes and moved that the congress should be adjourned without completing the election. Members of the RCD threatened LTDH members with physical violence and police intervened, ultimately prohibiting the conclusion of the voting. Additionally, smaller LTDH offices reported difficulty in renting space to hold elections. Leaders maintained that hotel and hall managers have been threatened by police not to rent meeting space to them. Despite LTDH president Mokhtar Trifi's pledge to continue elections despite threats and violence, no new board was elected by year's end.

The CNLT reported that several dozen political police disrupted its plenary meeting on January 13 by surrounding the neighborhood in which they had planned to meet and preventing members from entering. Reports from a support committee for PCOT spokesman Hamma Hammami indicated that on January 20, police violently disrupted a meeting it attempted to hold at the LTDH branch in Sfax.

In February the Ministry of Interior refused to legally register the Democratic Forum for Labor and Liberties (FDTL). Since its founding in 1994, the FDTL, a center-left NGO of intellectuals, professionals, and political opposition members, has been trying

to obtain legal status. In October it was recognized legally.

In February police searched the house of and arrested Salah Hamzaoui, head of a support committee for Hama Hammami. Police warned him that opening his home to political meetings could expose him to legal/judicial proceedings. On May 22 police surrounded Hamzaoui's house when a Hammami support committee tried to meet there. Police prevented individuals from entering the house.

In August 2001, less than a week after Sihem Bensedrine's release from prison, police assaulted her and other activists outside the publishing house which Bensedrine directs.

Credible reports indicated that Lasaad Juhri, a former Islamist prisoner, remained under close police surveillance and harassment throughout the year for his political involvement. Police questioned and warned those individuals speaking to him in public. In August five plainclothes police severely beat Juhri in Tunis (see Section 1.c.).

In April government-sanctioned pro-Palestinian demonstrations erupted into spontaneous demonstrations mostly on university and high school campuses. Some reportedly resulted in violent confrontations between demonstrators and police, and several demonstrators were injured. For example, on April 5 police violently dispersed a nongovernment sanctioned, pro-Palestinian demonstration of approximately 300 civil society activists, lawyers, and human rights activists. Also in April, the LTDH reported that 15 students arrested during the demonstrations were mistreated in jail and forced to sign statements promising not to take part in demonstrations again.

Although the Constitution provides for freedom of association, the Government restricted this right by barring some political groups or parties based on religion, race, region of origin, or political orientation. On December 13, the Government banned 11 opposition and civil society groups from demonstrating against war with Iraq. Hundreds of riot police enforced the ban, though organizers indicated they had tried to coordinate the protest with authorities beforehand.

Presiding judges in trials of Islamists routinely refused to investigate claims that their confessions were extracted under torture. Human rights activists alleged that the Government extended its prosecution of Islamist activists to include family members who were not politically active (see Sections 1.c., 1.d., and 1.e.). Also, in some cases, several years lapsed after detention and before defendants were brought to trial.

The Government banned organizations that it claims threaten disruption of the public order and used this proscription to prosecute and harass members of the PCOT, CNLT, RAID and ban political parties.

On February 2, Hama Hammami along with two co-defendants, Abdeljabar Madouri and Samir Taamallah, came out of over 3 years in hiding to file opposing briefs to their 1999 in absentia convictions for membership in an illegal organization and spreading false information aimed at undermining the public order. The charges stemmed from their membership in PCOT. Hammami's return drew some 400 supporters, international observers, journalists, human rights activists, lawyers, and diplomats to the court. Before presenting their appeal before the judge, Hammami, Madouri and Taamallah were seized by plainclothes police, handcuffed and dragged out of court. Upon realizing that Hammami had been removed forcibly, crowds that had gathered in the courtroom stood on benches and began chanting calls for 'political freedom' before singing the national anthem. Human rights lawyers agreed that the public display of support for Hammami in court was the first open and vocal demonstration of political dissent in several years. At one point, lawyers and supporters believed Hammami was being held upstairs in the courthouse and moved up the stairs intending to free him. Amidst the confusion, court officials locked an internal hall gate, preventing much of the crowd from leaving the courthouse and others from entering. There were reports that journalists and supporters were harassed, assaulted and arrested by police. Police reportedly confiscated some journalists' camera equipment.

c. Freedom of Religion

The Constitution provides for the free exercise of other religions that do not disturb the public order, and the Government generally observed and enforced this right; however, it did not permit political parties based on religion, prohibited proselytizing, and partially limited the religious freedom of Baha'is. Islam is the state religion. The Constitution stipulates that the President must be a Muslim.

The Government recognized all Christian and Jewish religious organizations that were established before independence in 1956. Although the Government permitted Christian churches to operate freely, only the Catholic Church had formal recognition from the post-independence Government. Since 1999 the Government has not permitted registration of a Jewish religious organization in Jerba; however, the group has been permitted to operate and it performs religious activities and charitable work unhindered.

The Government controlled and subsidized mosques and paid the salaries of prayer leaders. The President appointed the Grand Mufti of the Republic. The 1988 Law on Mosques provided that only personnel appointed by the Government may lead activities in mosques and stipulated that mosques must remain closed except during prayer times and other authorized religious ceremonies, such as marriages or funerals.

The Government did not permit the establishment of political parties based on religion, prohibited recognition of the an-Nahdha party, and prosecuted suspected party members on the grounds of membership in an illegal organization (see Sections 1.c., 1.d., 1.e., and 2.b.). The Government maintained tight surveillance over Islamists and members of the Islamic fundamentalist community. The Government revoked the identity cards of an estimated 10,000 to 15,000 Islamists and fundamentalists, which seriously disadvantaged them (see Section 1.f.).

According to reliable sources, the Government has refused to issue passports to Islamists and fundamentalists. The Government forbade the wearing of the hijab (headscarves worn by traditional Muslim women) in government offices. According to human rights lawyers, the Government regularly questioned Muslims who were observed praying frequently in mosques. Reliable sources report that the authorities instructed imams to espouse government social and economic programs during prayer times in mosques.

The Government allowed the Jewish community freedom of worship and paid the salary of the Grand Rabbi. It also partially subsidized restoration and maintenance costs for some synagogues. In 1999 the Jewish community elected a new board of directors, its first since independence in 1956, but continued to await approval from the governor of Tunis. Once approval is obtained from the governor, the organization is expected to receive permanent status. At year's end, the board is still waiting for formal approval. However, the board reported no obstacles to conducting normal activities. The acting board has changed its name to the Jewish Committee of Tunisia. The Government permitted the Jewish community to operate private religious schools and allowed Jewish children on the island of Jerba to divide their academic day between secular public schools and private religious schools. The Government also encouraged Jewish expatriates to return for the annual Jewish pilgrimage to the historic El-Ghriba Synagogue on the island of Jerba. During the year, an international Jewish relief organization made trips to the country and reported no interference with its activities. In March a synagogue in the Tunis suburb of La Marsa was broken into and vandalized and in April a synagogue in Sfax also was vandalized. No injuries were reported and damage was minor. Both incidents were isolated, and the Government responded by increasing security at both sites.

On April 11, a terrorist attack outside the El-Ghriba synagogue killed 21 persons and severely damaged the interior of the synagogue. Approximately 2 weeks before the annual pilgrimage, the driver of a truck transporting liquid gas, Nizar Nawar, a 24-year-old citizen, detonated an explosive device while the truck stood at the synagogue compound wall, killing himself, 14 German nationals, 1 French national, and 5 other citizens. The Government initially claimed the explosion was an accident and immediately began repairing the wall and removing evidence. On April 22, after German authorities became involved in the investigation, the Government admitted that the incident was an attack. The Government provided increased security for the synagogue and encouraged pilgrims and tourists to visit El-Ghriba despite the attack.

The Government regarded the Baha'i faith as a heretical sect of Islam and permitted its adherents to practice their faith only in private.

In general the Government did not permit Christian groups to establish new churches, and proselytizing was viewed as an act against the public order. Foreign missionary organizations and groups operate but were not permitted to proselytize in the country. Authorities deported foreigners suspected of proselytizing and did not permit them to return. There were no reported cases of official action against persons suspected of proselytizing during the year; however, in 2001 there were reports materials distributed by Christian missionaries were confiscated from local secondary students.

Islamic religious education was mandatory in public schools; however, the religious curriculum for secondary school students also included the histories of Judaism and Christianity.

Religious groups were subjected to the same restrictions on freedom of speech and the press as secular NGOs. Although Christian groups reported that they were able to distribute previously approved religious publications in European languages without difficulty, they claimed that the Government generally did not approve either publication or distribution of Arabic-language Christian material. Moreover, authorized distribution of religious publications was limited to existing religious communities, because the Government viewed public distribution of both religious and secular documents as a threat to the public order and hence an illegal act.

For a more detailed discussion see the 2002 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and persons were free to change their place of residence or work at will; however, in practice the Government restricted the freedom of movement and foreign travel of those critical of it.

The 1998 amendments to the passport law transferred power for canceling passports from the Ministry of Interior to the courts; however, the amended law contained broad provisions that permit passport seizure on undefined national security grounds and deny citizens the right either to present their case against seizure or to appeal the judges' decision. By law the Ministry of Interior must submit requests to seize or withhold a citizen's passport through the Public Prosecutor to the courts; however, the Ministry of Interior routinely bypassed the Public Prosecutor to withhold passports from citizens. Credible reports indicated that the Public Prosecutor always deferred to the Ministry of Interior on such requests.

The Government arbitrarily withheld passports from citizens. According to reliable sources, the Government withheld many passports of members of the human rights community, including human rights lawyer Nejib Hosni, and PCOT student Nourredine Ben N'tiche, as well as many members of the Islamist community. According to credible sources, some political opponents in self-imposed exile were prevented from obtaining or renewing their passports in order to return (see Section 1.d.). According to reliable sources, the Government reportedly confiscated the passports of a small number of Christian converts. Abdallah Zouari, a journalist, who in June was released after serving an 11-year sentence for his association with an-Nahdha, in August was rearrested and sentenced to 8 months in prison for failing to abide by the Ministry of Interior's exile provision in his order of administrative control. Zouari, who is from Tunis, was ordered to live in Zarzis (300 miles south of the capital) (see Section 1.d.).

In January the Government prevented Mokhtar Yahiaoui, removed from the judicial bench in 2001 for speaking out against Government interference in the judiciary, from traveling to Paris, to Geneva in April, and to Athens in June. Border police initially indicated that the reason for preventing his departure was due to the incorrect listing of judge as Yahiaoui's profession in his passport.

Hedi Bejaoui, another member of an-Nahdha, under administrative control since 1990, has been unable to travel for medical treatment due to the Government's seizure of his passport (see Section 1.d.).

On November 23, the Government again denied Sadri Khiari the right to travel to France to defend his dissertation. A support committee called Article 13, after the "freedom of movement" section of the Universal Declaration of Human Rights, was established in support of Khiari and others who were denied their right to travel.

The Constitution provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. It also expressly prohibits the extradition of political refugees. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) in assisting refugees. The Government acknowledged the UNHCR's determination of refugee status, which was accorded to 102 individuals during the year. During the year, the UNHCR processed 38 applications for asylum. The Government provided first asylum for refugees based on UNHCR recommendations. There was no pattern of abuse of refugees. Although a few refugees were deported during the year, none were forced to return to countries where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides that the citizenry shall elect the President and members of the legislature for 5-year terms; however, there were significant limitations on citizens' right to change their government. In 1999 President Ben Ali was reelected for a third 5-year term in the country's first multi-party presidential elections. Official government results stated that Ben Ali won with 99.44 percent of the vote. The ruling RCD party's domination of state institutions and political activity precludes credible and competitive electoral challenges from unsanctioned actors. In February government proposed constitutional amendments were put forward in a program titled 'The Republic of Tomorrow,' which called for amending 38 of the Constitution's 76 articles. In a February 27 speech to the Chamber of Deputies, President Ben Ali said his aim was to "entrench the spirit of democracy and the multiparty system." As prescribed by the Constitution, President Ben Ali sought the input of the Constitutional Council and the Chamber of Deputies, and organized the national campaign for the first-ever referendum on May 26. While the process of proposing and passing the amendments technically followed the law, many observers viewed the amendments as an attempt to enable President Ben Ali to remain in office past his third 5-year term, conceivably until he reached the age of 75 in 2014.

On May 26, a national referendum, despite serious procedural questions, including the secrecy of the vote, passed with an officially reported 99.52 percent of the vote. A presidentially appointed election monitoring group presented a confidential report to the President regarding the election process, which reportedly substantiated numerous irregularities alleged by opposition parties.

The most substantive changes involved the six following articles of the Constitution: Article 15 originally tasked citizens with the responsibility for national defense. The amended version broadened this responsibility to include protection of the country's "independence, sovereignty, and integrity." Human rights activists believed that the new wording may be used to prosecute activists who criticize the regime abroad. Article 19 established a Chamber of Councilors as a second legislative chamber. The chamber would comprise 1-2 members elected from each governorate (based on population), a second group of members chosen by the president from professional organizations and a third group appointed by the President from among national public figures. Article 39, originally limiting the president to three terms, was abolished. Changes to Article 40 raised the upper age limit of presidential candidates to 75. Article 41 granted the president judicial immunity upon leaving office for acts he undertook in the exercise of his duties. Lastly, Article 57 granted the Constitutional Council responsibility for determining if the president is unfit to govern and mandates that the President of the Chamber of Deputies is next in the line of succession to hold the presidency for between 45 and 60 days until new elections can be held.

The RCD party and its direct predecessor parties have controlled the political arena since independence in 1956. The RCD dominates the Cabinet, the Chamber of Deputies, and regional and local governments. The President appointed the Cabinet and the 24 governors. The Government and the party are integrated closely; the President of the Republic also is the president of the party, and the party's secretary general holds the rank of minister.

Narrowly written criteria in the Electoral Code greatly restrict the eligibility of persons to run for president. A candidate must

receive the endorsement of 30 sitting deputies or municipal council presidents to be eligible to run.

The 182-seat Chamber of Deputies does not function as a counterweight to the executive branch; rather, it served as an arena in which the executive's legislative proposals are debated prior to virtually automatic approval. Debate within the Chamber is often lively and government ministers are summoned to respond to deputies' questions, although heated exchanges critical of government policy were not reported fully in the press. Regardless of the debate, the Chamber has a history of approving all government proposals; the Chamber does occasionally modify the proposed legislation. The new chamber will serve as an upper house and will function largely with similar duties of the Chamber of Deputies. It will have law-making authority.

The Electoral Code reserves 20 percent of the seats for the officially recognized, or legal, opposition parties distributed on a proportional basis to those parties that did not win directly elected district seats. For the 1999 elections, each party represented in the Chamber of Deputies received an annual public subsidy of approximately \$42,000 (60,000 dinars), plus an additional payment of \$3,500 (5,000 dinars) per deputy. The Government also provided campaign financing that corresponded to the number of district lists that each party presented. Moreover, with funding based on the number of seats in Parliament, the opposition parties had no interest in forming coalitions against the RCD, but concentrated instead on competing with each other for the largest possible share of the 20 percent of seats reserved for the opposition. During the elections, opposition parties found independent fundraising impossible, and those that published newspapers or magazines faced difficulties in obtaining paid advertisers. However, in 2001 the President announced a 50 percent increase in allowances given by the Government to opposition newspapers. Each opposition newspaper received \$105,000 (150,000 dinars) annually. The Government did not permit the establishment of political parties on the basis of religion and uses the prohibition to refuse recognition of the an-Nahdha party and to prosecute suspected members on the grounds of membership in an illegal organization (see Sections 2.b. and 2.c.). On October 25, the Democratic Forum for Labor and Liberties (FTDL) was legalized, 8 years after first applying for recognition.

During the 4 month long campaign for the constitutional referendum, the Government gave opposition parties rare television time to present their positions.

Twenty-one of the 182 Deputies elected were women, up from 13 of 163 deputies in the previous Chamber. There were six women in the Cabinet. Fourteen women held the position of deputy governor within the 24 governorates. Three women served as president of chambers on the 22-member Court of Cassation, which is the highest court of appeal.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The LTDH is the most active independent advocacy organization, with 41 branches throughout the country. The organization receives and researches complaints and protests individual and systemic abuses. During the year, LTDH members and other human rights activists reported government beatings, harassment, interrogations, property loss or damage, unauthorized home entry, and denial of passports.

In September a delegation of Dutch lawyers were denied entry into the country to protest the lack of an independent judiciary and support for the Tunisian Bar Association. On October 26, the Government refused entry to a delegation from the International Commission of Jurists (ICJ).

In February Khemais Ksila was sentenced in absentia to 10 years in prison and fined \$3,600 (TD 5,000) for attempted rape. Observers believed that the case received a disproportionate amount of press coverage throughout the latter half of 2001, aimed at discrediting Ksila before he had the opportunity to present evidence on his behalf. In 2001 LTDH vice president Souhayr Belhassen was criticized heavily in the press for her work on a human rights commission investigating abuses in Iraq. The report had not been released by year's end.

There were numerous additional reports during the year of police attacking human rights activists, journalists, and others critical of the Government (see Sections 1.c., 2.a., and 2.b.). During the year, LTDH activists continued to report government harassment, interrogation, and property loss or damage. In previous years, the LTDH had reported unauthorized home entries and denial of passports. During the year, the LTDH reported that some of its regional elections were disrupted by RCD activists. By year's end, incomplete regional results precluded national elections from taking place (see Section 2.b.).

Since 1998 the Government has refused to authorize CNLT registration as an NGO. The court has not yet acted on the 1999 administrative appeal filed by the CNLT's founders. CNLT issued statements criticizing government human rights practices. Government officials stated that, by publishing communiques in the name of an unregistered NGO, CNLT members violated the Publications Code (which requires that advance copies be provided to the Government), belonged to an illegal organization, and threatened public order. Some CNLT members still are unable to obtain passports (see Sections 1.f. and 2.d.).

In March the European Parliament adopted a resolution condemning human rights violations in Tunisia and calling for the release of Hamma Hammami and his co-defendants (see Section 2.b.).

Citing no guarantees of a fair trial and the threat of mistreatment, members of the European Parliament and international human rights NGOs objected to the Government's December request for extradition from France of dissident Khemais Toumi. Toumi

had been convicted in absentia in 1997 and sentenced to 5 years in prison. On December 6, he was arrested in France and his extradition remained pending at year's end.

International observers were permitted to monitor trials, and they reported that the Government generally permitted them to conduct such monitoring (see Section 1.e.).

The Government reportedly blocked access to the Internet Web sites of most human rights organizations (see Section 2.a.). Human rights activists and lawyers complained of frequent interruptions of postal and telephone services (see Section 1.f.).

AI continued to maintain a local chapter though members complained that the office suffered repeated loss of telephone and fax service. Persons who were considering joining the chapter reported that security officials discouraged them from doing so. AI officials reported that they were under periodic police surveillance and that there was interference with their mail. In 2001 police assaulted and detained two foreign delegates from AI (see Section 1.d.).

Human rights offices in certain ministries and a governmental body, the Higher Commission on Human Rights and Basic Freedoms, addressed and sometimes resolved human rights complaints. The Higher Commission submits confidential reports directly to President Ben Ali. In September the Ministry of Human Rights, Communications, and Relations with the Chamber of Deputies was replaced by a new Ministry of Justice and Human Rights under Minister of Justice Bechir Tekkari and former university professor Hatem Ben Salem was appointed General Coordinator for Human Rights in the new ministry (see Section 2.a.). In 2001 the Government announced the establishment of a documentation center for human rights; however, at year's end, there was no indication that it was operating.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution provides that all citizens shall have equal rights and responsibilities and be equal under the law, and the Government generally respected these rights in practice. Legal discrimination was not pervasive, apart from that experienced by women in certain areas, such as inheritance, which is governed by Shari'a.

Women

Violence against women occurs, but there are no comprehensive statistics to measure its extent. In 2000, according to a family court judge, women file approximately 4,000 complaints of domestic violence each year, but later drop approximately half of those complaints. There have been no recent estimates as to the number of these complaints. The Tunisian Democratic Women's Association operates a counseling center for women who are victims of domestic violence. The center assists approximately 20 women per month. The National Union of Tunisian Women (UNFT) is a government-sponsored organization that runs centers to assist women and children in difficulty. Instances of rape or assault by someone unknown to the victim are rare. Police officers and the courts tend to regard domestic violence as a problem to be handled by the family. Nonetheless, there are stiff penalties for spousal abuse. Both the fine and imprisonment for battery or violence committed by a spouse or family member are double those for the same crimes committed by an individual not related to the victim.

Rape is specifically prohibited by the Penal Code. There is no legal exception to this law for spousal rape, but in part due to social stigma there were no reports of spousal rape being prosecuted.

Prostitution is prohibited by the Penal Code specifically, but charges against individuals are rare. There have been no reported cases of trafficking, forced prostitution, or sex tourism.

Women enjoyed substantial rights and the Government has made serious efforts to advance those rights, especially in the areas of property-ownership practices and support to divorced women. Either the mother or father may convey citizenship to a child.

Muslim women were not permitted to marry outside their religion. Marriages of Muslim women to non-Muslim men abroad were considered common-law, which are prohibited and thus void when the couple returns to the country. Non-Muslim women who marry Muslim men were not permitted to inherit from their husbands, nor may the husbands and any children (who are considered to be Muslim) from the marriage inherit from the non-Muslim wife. Some Christian converts reported difficulty in having their civil marriages recognized.

Most property acquired during marriage, including property acquired solely by the wife, still is held in the name of the husband. Inheritance law, based on Shari'a and tradition, discriminates against women, and women still face societal and economic discrimination in certain areas, such as private sector employment.

Sexual harassment is prohibited specifically by the Penal Code.

Women comprised approximately 29 percent of the work force. There are an estimated 5,000 businesses headed by women, which is an increase from 3,900 in 2000. Women served in high levels of the Government as cabinet ministers or secretaries of state; there currently are six women who hold these positions. Women constituted 37 percent of the civil service and 24 percent

of the nation's total jurists. Women held 14 deputy governorships in the country's 24 governorates (or administrative regions). Approximately 51 percent of university students enrolled in the 2000-2001 academic year were women.

The law explicitly requires equal pay for equal work. Although there are no statistics comparing the average earnings of men and women, generally women and men performing the same work are believed to be paid the same wages.

While the rate of illiteracy has dropped markedly in both rural and urban areas, the rate of female illiteracy in all categories is at least double that of men. Among 10- to 14-year-old children, 5.5 percent of urban girls are illiterate, compared with 2.2 percent of urban boys, and 27 percent of rural girls compared with less than 7 percent of rural boys.

Several NGOs focused, in whole or in part, on women's advocacy, or research women's issues, and a number of attorneys represent women in domestic cases.

There is a separate Ministry for Women's Affairs, Family and Childhood, with a relatively large budget nearly 3 percent of the total budget of \$2 million (3 million dinars) supporting its mission to ensure the legal rights and improve the socioeconomic status of women. The Government supported and funded the (UNFT), women's professional associations, and the Government's Women's Research Center.

Children

The Government demonstrated a strong commitment to free and universal public education, which is compulsory until age 16. Approximately 80 percent of boys attend until that age in urban areas and 60 percent of boys and girls in rural areas. Primary school enrollment for the scholastic year was slightly less than the preceding year's, reflecting a decline in the birth rate; secondary school enrollment showed an increase of 8 percent, which appeared equally divided between boys and girls. The Government reported that 99.1 percent of children attend primary school full-time. The Government sponsored an immunization program targeting preschool-age children, and reported that more than 95 percent of children are vaccinated.

Penalties for convictions for abandonment and assault on minors are severe. There was no societal pattern of abuse of children. Following the September cabinet reshuffle, there were two ministries responsible for rights of children. The Ministry of Women's Affairs, Family and Childhood and the Ministry of Culture, Youth and Leisure. Each have secretaries of state responsible for guaranteeing the rights of children. In April the Chamber of Deputies adopted a law to complete the Code for the Protection of Children creating a 'Parliament of the Child' to teach children civic responsibility.

There were no reports of child prostitution.

Persons with Disabilities

The law prohibits discrimination based on disability and mandates that at least 1 percent of the public and private sector jobs be reserved for persons with disabilities. All public buildings constructed since 1991 must be accessible to persons with physical disabilities. Many cities, including the capital, began installing wheelchair access ramps on city sidewalks. The Government issued special cards to persons with disabilities for benefits such as unrestricted parking, priority medical services, preferential seating on public transportation, and consumer discounts. The Government provided tax incentives to companies to encourage the hiring of persons with physical disabilities.

The law includes provisions prohibiting discrimination against persons with mental disabilities. Several active NGOs provide educational, vocational, and recreational assistance to children and young adults with mental disabilities. Some were funded by the Government and international organizations.

Indigenous People

The Government estimated that the small Amazigh (Berber) minority constitutes less than 3 percent of the population. Some older Amazighs have retained their native language, but the younger generation has been assimilated into local culture through schooling and marriage. Amazighs were free to participate in politics and to express themselves culturally.

Section 6 Worker Rights

a. The Right of Association

The Constitution and the Labor Code provide the right of workers to organize and form unions. The Government generally respected this right. The Tunisian General Federation of Labor (UGTT) is the country's only labor federation. Approximately 15 percent of the 3.3 million person work force, including civil servants and employees of state-owned enterprises, are members, and a considerably larger proportion of the work force is covered by union contracts. A union may be dissolved only by court order.

The UGTT and its member unions legally are independent of the Government and the ruling party, but operate under

regulations that restrict their freedom of action. The UGTT's membership included persons associated with all political tendencies, although Islamists have been removed from union offices. There were credible reports that the UGTT receives substantial government subsidies to supplement modest union dues and funding from the National Social Security Account. While regional and sector-specific unions operate with some independence on local issues, the central UGTT leadership generally cooperated with the Government regarding its economic reform program. Throughout the year the UGTT board showed some independence regarding economic and social issues and to support greater democracy.

The law prohibited antiunion discrimination by employers. However, the UGTT claims that there is antiunion activity among private sector employers, especially firing of union activists and using temporary workers to avoid unionization. In certain industries, such as textiles, hotels, and construction, temporary workers account for a large majority of the work force. The Labor Code protects temporary workers, but enforcement is more difficult than in the case of permanent workers. A committee chaired by an officer from the Labor Inspectorate of the Office of the Inspector General of the Ministry of Social Affairs and Solidarity, and including a labor representative and an employers' association representative, approves all worker dismissals.

Unions were free to associate with international bodies. The UGTT is a member of the International Confederation of Free Trade Unions (ICFTU), Confederation of Arab Trade Unions, and Confederation of African Trade Unions; many individual unions are affiliated with relevant international sectoral confederations.

b. The Right to Organize and Bargain Collectively

The right to organize and bargain collectively is protected by law and observed in practice. Wages and working conditions are set in triennial negotiations between the UGTT member unions and employers. Forty-seven collective bargaining agreements set standards for industries in the private sector and cover 80 percent of the total private sector workforce. Each agreement was negotiated by representatives of unions and employers in the area the agreement encompasses. The Government's role in the private sector negotiations was minimal, consisting mainly of lending its good offices if talks appear to be stalled. However, the Government must approve (but may not modify) the agreements. Once approved the agreements set standards for all employees, both union and nonunion, in the areas that they cover. The UGTT also negotiated wages and work conditions of civil servants and employees of state-owned enterprises. The Government is the partner in such negotiations. In October the Government completed a series of triennial labor negotiations with the UGTT and UTICA (the private sector's employer's association). Negotiations were protracted and complex but resulted in a compromise of a 5 percent wage hike across most sectors. The agreements signed in 2000 provided for annual wage increases ranging from four to six percent.

Unions, including those representing civil servants, have the right to strike, provided that they give 10 days advance notice to the UGTT and it approves of the strike. The ICFTU has characterized the requirement for prior UGTT approval of strikes as a violation of worker rights. However, such advance approval rarely was sought in practice. There were numerous short-lived strikes over failure by employers to fulfill contract provisions regarding pay and conditions and over efforts by employers to impede union activities. While the majority of the strikes technically were illegal, the Government did not prosecute workers for illegal strike activity, and the strikes were reported objectively in the press. The law prohibited retribution against strikers.

Labor disputes were settled through conciliation panels in which labor and management are represented equally. Tripartite regional arbitration commissions settle industrial disputes when conciliation fails.

There were export-processing zones (EPZs) in the country.

c. Prohibition of Forced or Bonded Labor

The law prohibits forced and bonded labor by children, and the Government generally enforced this prohibition effectively; however, some families of teenage girls placed them as household domestics to collect their wages (see Section 6.d.).

d. Status of Child Labor Practices and Minimum Age for Employment

The minimum age for employment is 16 years. The minimum age for light work in the nonindustrial and agricultural sectors is 13 years. Workers between the ages of 14 and 18 must have 12 hours of rest per day, which must include the hours between 10 p.m. and 6 a.m. Children between the ages of 14 and 16 in nonagricultural sectors may work no more than 2 hours per day. The total time that children spend in school and work may not exceed 7 hours per day. The minimum age for hazardous or manual labor is 18. Inspectors of the Ministry of Social Affairs and Solidarity examined the records of employees to verify that employers comply with the minimum age law. There were no reports of sanctions against employers. Nonetheless, young children often performed agricultural work in rural areas and worked as vendors in urban areas, primarily during the summer vacation from school.

Observers have expressed concern that child labor continued to exist, disguised as apprenticeship, particularly in the handicraft industry, and in the cases of teenage girls whose families place them as household domestics in order to collect their wages. There were no reliable statistics on the extent of this phenomenon; however, an independent lawyer who conducted a study of the practice in 2000 concluded that hiring of underage girls as household domestics has declined with increased government enforcement of school attendance and minimum work age laws. The law prohibits forced and bonded child labor, and the

Government generally enforces this prohibition effectively (see Section 6.c.).

e. Acceptable Conditions of Work

The Labor Code provides for a range of administratively determined minimum wages, which are set by a commission of representatives from the Ministries of Social Affairs and Solidarity, Development and International Cooperation, and Finance, in consultation with the UGTT and the Employers' Association. The President approved the commission's recommendations. In June the industrial minimum wage was raised to \$147.43 (200.5 dinars) per month for a 48-hour workweek and to \$129.34 (175.9 dinars) per month for a 40-hour workweek. The agricultural minimum wage is \$4.45 (6.059 dinars) per day. When supplemented by transportation and family allowances, the minimum wage provides for a decent standard of living for a worker and family, but covering only essential costs. The Labor Code sets a standard 48-hour workweek for most sectors and requires one 24-hour rest period per week.

Regional labor inspectors are responsible for enforcing wage and hour standards. They inspect most firms about once every 2 years. However, the Government often encountered difficulty in enforcing the minimum wage law, particularly in nonunionized sectors of the economy. Moreover, more than 240,000 workers were employed in the informal sector, which falls outside the purview of labor legislation.

The Ministry of Social Affairs and Solidarity has responsibility for enforcing health and safety standards in the workplace. There were special government regulations covering such hazardous occupations as mining, petroleum engineering, and construction. Working conditions and standards tend to be better in firms that are export oriented than in those producing exclusively for the domestic market. Workers were free to remove themselves from dangerous situations without jeopardizing their employment, and they may take legal action against employers who retaliate against them for exercising this right.

The few foreign workers have the same protections as citizen workers.

f. Trafficking in Persons

The law does not prohibit trafficking in persons; however, it does prohibit slavery and bonded labor. Trafficking in persons generally was not a problem; however, in June eleven people drowned off the north coast near Kelibia (55 miles northeast of Tunis) trying to swim to a boat smuggling people to Italy. Police arrested 70 persons who had boarded the ship, the captain, and several of the organizers of the smuggling ring. Defendants claimed they had paid up to \$710 (970 dinars) each to a smuggling network to cross the Mediterranean to Italy. In July five defendants accused of organizing the smuggling ring were convicted and sentenced to 6 years in prison each. The 70 who attempted to immigrate illegally were fined \$150 (205 dinars) each.

In September the bodies of 10 illegal immigrants washed ashore in Sicily. Fifty more immigrants were rescued from the sea after being thrown overboard by their smugglers. The Italian Navy arrested the 27-year-old citizen captain of the boat. All on board were local nationals.

In October the Government hosted a ministerial conference on migration throughout the western Mediterranean. The conference included ministers from Algeria, Spain, France, Italy, Libya, Malta, Morocco, Mauritania, and Portugal and resulted in the "Tunis Declaration," aimed at combating illegal migration.